

ADVISORY OPINION 2001-001

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

May 18, 2001

Honorable Joseph E. Lambert
Chief Justice, Supreme Court of Kentucky
Chambers, State Capitol
Frankfort, Kentucky 40601

Dear Chief Justice Lambert:

This is in reference to your April 19, 2001 letter requesting an advisory opinion regarding the application of KRS 121.150(6) against political issues committees. In reference to the formation of a political issues committee organized to support passage of a constitutional amendment to authorize the creation and operation of family courts, which will be proposed to voters statewide on the 2002 regular election ballot, you pose the following question:

Specifically, I wish to have an opinion as to whether the Registry of Election Finance enforces the \$1,000 contribution limit set forth in KRS 121.150(6). I recognize that any such decision will be influenced by Citizens Against Rent Control v. Berkley and other decisions that have broadly held that contribution limits on “issues advocacy” are unconstitutional and unenforceable.

KRS 121.150(6) prohibits a candidate, campaign committee or political issues committee from accepting more than \$1,000 per person per election. As you correctly

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state in your letter, in Citizens Against Rent Control v. Berkeley, 454 U.S. 290 (1981), the United States Supreme Court held that the First Amendment rights of association and freedom of speech prohibit limits on contributions to issues committees formed for the purpose of supporting or opposing a ballot measure. Citing Citizens Against Rent Control, id., and analyzing the effect of 1996 legislative changes to the definition of political issues committee, the Registry has opined that the contribution limit of KRS 121.150(6) is unenforceable against political issues committees, which, acting in accordance with the definition of a political issues committee, are advocating a position on a ballot measure. See KREF Advisory Opinion 1998-011; see, also, KREF Advisory Opinions 2000-004 and 1999-005. Therefore, based on the legal analysis expressed in KREF Advisory Opinion 1998-011, the contribution limit under KRS 121.150(6) would not be enforceable against a political issues committee organized, as you state in your letter, “to support passage of an amendment to the Constitution of Kentucky that would expressly authorize creation and operation of family courts.”

This opinion reflects the Registry’s consideration of the specific transactions posed by your letter. If you have any additional questions, please do not hesitate to contact the Registry staff.

Sincerely,

Rosemary F. Center
General Counsel

Enclosures

RFC/jh

Cc: Registry Board Members
Sarah M. Jackson, Executive Director